

REQUEST FOR PROPOSAL

**TRANSPORTATION & MOBILITY PLANNING
DIVISION**

**ON-CALL CONSULTANT SERVICES
REGION 2**

**BRISTOL, SALEM, LYNCHBURG,
RICHMOND AND HAMPTON ROADS
DISTRICTS**

Reference No: TMPD 09-05



GENERAL

The Virginia Department of Transportation is seeking expressions of interest from consulting engineering firms who wish to be considered to supplement in-house and District Planning staff on a “limited services” basis by providing transportation planning study/analysis services. The services will be required under a one-year contract with two (2) optional one-year renewal terms.

The project cost is \$ 1,000,000 per term

This work is to be accomplished utilizing computerized design and drafting systems compatible with the Department’s automated design and drafting systems. The Department’s roadway design system is GEOPAK Civil Design Software and the drafting system is Microstation. This project will be developed utilizing the Department’s policies and procedures and FHWA’s guidelines. This Request for Proposal does not commit the Department to award a contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for services. The Department reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified firm or to modify or cancel in part or in its entirety the Request for Proposal if it is in the best interest of the Department to do so.

SCOPE

The scope of work shall consist of providing, but **NOT** Limited to the following:

1. **Transportation Analysis** – specialized studies as needed to assess proposed projects within a short time frame. Examples could include travel demand or traffic forecasting of proposed roadways using tolls, HOV lanes, and congestion pricing techniques. Other examples could include diversion of traffic due to substantial long term work zone activity; economic assessments of the affect of changes in HOV rates upon alternative modes; pedestrian and bike planning; transit studies, roundabouts, and air quality analysis.
2. **Corridor Studies** – analysis of routes or proposed roadway links which may include traffic counts, forecasting of traffic, assessment of intersection and roadway geometrics, capacity and safety analysis, and recommended improvements. Aerial photography may be needed as well as CADD capacities.
3. **Simulation/Modeling** – studies include the use of computers and appropriate software to provide computer simulation of corridors or road networks as needed utilizing TRAF-NETSIM, CORSIM, MINUTP, TP+, the Highway Capacity Manual and other available tools. Training may also be included with these projects.
4. **Transportation Plans** – develop or assist with development of long range transportation plans.
5. **Traffic Counts** – perform data collection as needed within short time frames including ADT’s, 12-hour counts, intersection turning movement counts, occupancy rates, speed/delay runs, pedestrian and bike counts, parking turnover, etc.
6. **Access Studies** – work could include the evaluation of existing access in major corridors with emphasis on achieving increases in vehicular capacity and safety. Work could include simulation, design modifications, report writing as well as presentation of material.

7. **Writing/Review of Traffic Impact Studies** – assessment of the effects of proposed land use or special generators upon the existing and future road network. Work could include the writing or review of such material.
8. **Statewide Multimodal Long-Range Transportation Plan** – specialized studies and analysis in support of the statewide Multimodal Long-Range Transportation Plan. Examples could include provide assistance with analyzing public input, developing and evaluating trend analysis and forecast data, assessing transportation-related policy and regulatory issues. Assistance may also be requested to provide meeting support and assistance in developing reports, graphics, and other presentation material.
9. **Surface Transportation Plan** – assist in developing, analyzing, and updating roadway inventory and recommendations
10. **Small Urban Area and Rural Transportation Plans** – assist in update of data collection, analysis, recommendations of plans. Work could include writing of reports, producing maps and tables in hard copy and electronic format and making presentations.
11. **Research and Outreach** – provide assistance, produce written reports in hard and electronic format and make presentations on transportation topics.
12. **Training** – provide training in specific transportation planning areas as requested by TMPD Administrator.

All procurement related questions or information should be directed to Irene Shuman in the Transportation & Mobility Planning Division at 804-786-2813 or email Irene.Shuman@VDOT.Virginia.gov.

EXPRESSION OF INTEREST (EOI)

1. The Expression of Interest shall be organized in the following order:
 - Transmittal letter
 - Table of Contents
 - Understanding of Scope of Work
 - Response to RFP Expression of Interest Items 2-14
 - Present Workload with Department form
 - Team Organization Chart
 - GSA Form 255 – one combined for the project team
 - GSA Form 254 – one for each firm
 - Firm Data Sheet
 - Certification Regarding Debarment form
2. Furnish three copies of current GSA Forms 254 for each firm involved and three copies of one combined GSA Form 255 for the project team. The GSA Form 255 must specify the number of personnel by discipline for each office where the work is to be performed. In Section 4 of GSA Form 255, list only the full time employees assigned to the office(s) at the time of this submission.

Section 8 of GSA Form 255 is limited to one page with not more than 10 projects total (prime and subconsultants combined) on the one page and should primarily list experience of offices where the work will be performed and of the people shown in the organizational chart. If the experience shown is for a branch office other than where the work will be performed, it should be clearly indicated as such. More detailed descriptions for Section 8b may be expanded into Section 10. In Section 9 of GSA Form 255, references to “Federal agencies” are to be replaced by “Virginia Department of Transportation or transportation agencies of other states.”

3. If more than one firm will participate in the contract, state the type of arrangement between the firms, the names and addresses of all firms, description of the work that each firm will perform, and the percentage of work to be performed by each in Section 5 and 6 of GSA Form 255. Indicate office locations at which the work will be performed. A one page organizational chart showing all firms involved and key personnel assignments and responsibilities is required to be included.
4. In Section 7 of GSA Form 255, indicate **KEY PERSONNEL ONLY** who will be assigned to this project and give the experience record of each. Key personnel are defined as those to whom the project will be assigned and who will be performing the actual design/services. The project manager shall have a minimum of five years experience in managing similar type and size projects. In Section 7c, indicate the location of the office where the person is currently working if different from where work is to be performed. In Section 7c, part time personnel, personnel not employed on the date of the form, or personnel used on an “as needed basis” must have their status clearly indicated. Section 7g may be expanded to provide a total of a one page resume per individual.

Furthermore, all individuals identified as Key Personnel in the EOI shall remain on the Consultant’s Team for the duration of the procurement process and, if the consultant is awarded a contract, the duration of the contract. If extraordinary circumstances require a proposed change, it must be submitted in writing to the Department’s Project Manager, who, at his/her sole discretion, will determine whether to authorize a change. Unauthorized changes to the Consultant’s Team at any time during the procurement process may result in elimination of the Consultant’s Team from further consideration.

5. Section 10 of GSA Form 255 is limited to a maximum of ten pages. This section should describe the organization of the proposed project staff indicating the role of each by individual. If subconsultants are proposed, the role of each subconsultant should be discussed. It should also include statements that are responsive to the attached Consultant Short List Score Sheet that will be used to evaluate your submission. This is the **ONLY** section of the submission which may include pictures or graphics (included in the ten page limit). List any computer and CADD equipment and any specialized computer software packages that you will use on this VDOT project.
6. It is the policy of the Virginia Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of federally funded consultant contracts. A list of Virginia Department of Minority Business Enterprise certified DBE firms is maintained on their web site (<http://www.dmb.state.va.us/>) under the **DBE Directory of Certified Vendors**. Consultants are encouraged to take all necessary and reasonable steps to ensure that DBE firms have the maximum opportunity to compete for and perform services on the contract subsequent. If the consultant intends to subcontract a portion of the services, the consultant is encouraged to seek out and consider DBE firms as potential subconsultants. Any agreement between a consultant and a DBE firm whereby the DBE firm promises not to provide services to other consultants is prohibited. The Department believes that these services support 10% DBE participation.

In accordance with the Governor's Executive Order No. 33, the Virginia Department of Transportation also requires a utilization of Small, Women and Minority (SWaM) Businesses to participate in the performance of state funded consultant contracts. A list of Virginia Department of Minority Business Enterprise (DMBE) certified SWaM firms is maintained on the DMBE web site (<http://www.dmb.state.va.us/>) under the **SWaM Vendor Directory** link. Consultants are encouraged to take all necessary and reasonable steps to ensure that SWaM firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services, the consultant is encouraged to seek out and consider SWaM firms as potential subconsultants. Any agreement between a consultant and a SWaM firm whereby the SWaM firm promises not to provide services to other consultants is prohibited.

VDOT is also required to capture DBE and SWaM payment information on all professional services contracts. The successful prime consultant will be required to complete C- 63 form for both state and federally funded projects on quarterly basis.

Any DBE or SWaM firm must become certified (with the Virginia Department of Minority Business Enterprise) prior to your response being submitted. If DBE or SWaM firm is the prime consultant, the firm will receive full credit for planned involvement of their own forces, as well as the work that they commit to be performed by DBE or SWaM subconsultants. DBE or SWaM prime consultants are encouraged to make the same outreach efforts as other consultants. DBE or SWaM credit will be awarded only for work actually being performed by them. When a DBE or SWaM prime consultant subcontracts work to another firm, the work counts toward DBE or SWaM goals only if the other firm is itself a DBE or SWaM. A DBE or SWaM prime consultant must perform or exercise responsibility for at least 30% of the total cost of its contract with its own force.

DBE or SWaM certification entitles consultants to participate in VDOT's DBE and SWaM programs. However, this certification does not guarantee that the firm will obtain VDOT work nor does it attest to the firm's abilities to perform any particular work.

7. If any firms involved with this submission currently have work with the Department, indicate the projects, the division managing the projects, the amount of outstanding fee remaining, and the estimated date of completion. For limited services term contracts, include only the amount of all tasks orders executed or under negotiation. Also, include your estimated fees for pending supplemental agreements and any projects for which the firms have been selected, but have not executed an agreement. Work of affiliated and/or subsidiary companies is to be included. The outstanding workload of any Virginia Department of Minority Business Enterprise certified DBE or SWaM prime or subconsultant is not to be included. When a DBE or SWaM firm graduates from the program, their workload incurred while a DBE or SWaM will be exempted for the next three years. Any workload obtained after graduating from the program will be counted. Work being performed under the Public Private Transportation Act (PPTA) or as a subcontractor on a Design-Build project shall not be included. Work being performed as a prime or joint venture on a Design-Build project shall be included. The outstanding fee remaining is the maximum total compensation payable less the amount previously paid to date. Only Category **B** work will be counted in the scoring criteria. This information shall be submitted using the attached Present Workload with Department form. Please carefully read the instructions on the Present Workload with Department form.

8. Give names and detailed addresses of all affiliated and/or subsidiary companies. Indicate which companies are subsidiaries. If a situation arises in responding to this questionnaire where you are unsure whether another firm is or is not an affiliate, doubt should be resolved in favor of affiliation and the firm should be listed accordingly.

Affiliate - Any business entity which is closely associated to another business entity so that one entity controls or has the power to control the other entity either directly or indirectly; or, when a third party has the power to control or controls both; or where one business entity has been so closely allied with another business entity through an established course of dealings, including but not limited to the lending of financial wherewithal, engaging in joint ventures, etc. as to cause a public perception that the two firms are one entity. Firms which are owned by a holding company or a third party, but otherwise meet the above conditions and do not have interlocking directorships or joint officers serving are not considered affiliates.

9. In one page, provide information that will indicate your firm's ability to meet the time schedule for this project. The schedule is as follows:
10. In two (2) pages or less, please furnish any other information that would indicate your qualifications to perform the work for this project.
11. A project approach discussion is neither required nor desired for this project.
12. In addition to the page restrictions listed above, a maximum of five additional pages may be included in the Expression of Interest. All pages are to be 8 1/2" X 11" and printed on one side with single-spaced type no smaller than 12 pitch.
13. Please indicate, by executing and returning the attached Certification Regarding Debarment forms, if your firm, subconsultant, subcontractor, or any person associated therewith in the capacity of owner, partner, director, officer or any position involving the administration of Federal or State funds:
- Is currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency.
 - Has been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years.
 - Does have a proposed debarment pending; or has been indicted, convicted, or had a civil judgment rendered against it or them by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

Any of the above conditions will not necessarily result in denial of award, but it will be considered in determining offeror responsibility. For any condition noted, indicate to whom it applies, initiating agency, and dates of action. Providing false information may result in Federal criminal prosecution or administrative sanctions.

14. If the prime consultant or subconsultant does not have the in-house capability to provide non-professional services, each with an estimated cost of \$5,000 or greater, such as diving services, soil drilling, sampling services or laboratory testing, these services must be subcontracted in accordance with State procurement procedures once a contract is executed, with no DBE or SWaM credit in the selection

of the most qualified firm or team. Clearly indicate these services in the EOI.

ADMINISTRATIVE

1. All business entities, except for sole proprietorships, are required to register with the Virginia State Corporation Commission (A Business Registration Guide is available on the Internet at <http://www.state.va.us/scc/division/clk/brg.htm>). Foreign Professional corporations and Foreign Professional Limited Liability Companies must possess a Commonwealth of Virginia Certificate of Authority from the State Corporation Commission to render professional services. Any business entity other than a professional corporation, professional limited liability company or sole proprietorships that do not employ other individuals for which licensing is required must be registered in the Commonwealth of Virginia with the Department of Professional & Occupational Regulation, Virginia Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects (<http://www.state.va.us/dpor>). Board regulations require that all professional corporations and business entities that have branch offices located in Virginia which offer or render any professional services relating to the professions regulated by the Board be registered with the Board. Registration involves completing the required application and submitting the required registration fee for each and every branch office location in the Commonwealth. All branch offices which offer or render any professional service must have at least one full-time resident professional in responsible charge who is licensed in the profession offered or rendered at each branch. All firms involved that are to provide professional services must meet this criterion prior to submitting an Expression of Interest to the Department. Individual engineers shall meet the requirements of Chapter 4, Title 54.1 of the Code of Virginia.
2. The Department will not consider for award any cost proposals submitted by any consultants and will not consent to subcontracting any portions of the contract to any subconsultants in violation of the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.
3. The method of payment for this contract will be actual cost for each task assignment based on fixed billable rates. This contract shall be performed and audited in compliance with cost principles contained in the Federal Acquisition Regulations (FAR) of Part 31 of Title 48 of the Code of Federal Regulations. For purpose of determining the fixed billable rates, an overhead rate shall be established by an audit by a cognizant government agency or independent CPA firm.
4. All firms submitting Expressions of Interest (prime consultants, joint ventures and subconsultants) must have internal control systems in place that meet Federal requirements for accounting. These systems must comply with requirements of 48CFR31, "Federal Acquisition Regulations, Contract Cost Principles and Procedures," and 23CFR172, "Administration of Negotiated Contracts." All firms selected for a project (prime consultants, joint ventures and subconsultants) must submit their FAR audit data to the Department within 10 work days of being notified of their selection. Should any firm on the consultant team fail to submit the required audit data within the 10 work days, negotiations will be terminated by the Department and the next most qualified team invited to submit a proposal.
5. Submittals shall be prepared simply and economically, providing a straightforward, concise description of the firm's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. Elaborate brochures and other representations beyond that sufficient to present a complete and effective proposal are neither required nor desired. Please do not duplicate information furnished in the GSA Form 254 or 255 elsewhere in the submittal.

All information must be submitted in TRIPLICATE and received no later than 4:00 p.m. on May 4, 2009. Responses received after this time will not be considered.

US Postal Service regular mail, send to:

Mr. W. W. Barker
Administrative Services Division
Virginia Department of Transportation
1401 E. Broad Street
Richmond, Virginia 23219

Hand delivery, US Postal Service express mail, or private delivery service (FEDEX, UPS, etc.), send to:

Mr. W. W. Barker
Administrative Services Division
Virginia Department of Transportation
1st Floor Reception Desk
1201 E. Broad Street
Richmond, Virginia 23219

6. The Department assures compliance with Title VI of the Civil Rights Act of 1964, as amended. The consultant and all subconsultants selected for this project will be required to submit a Title VI Evaluation Report (EEO-D2) within 10 work days of notification of selection when requested by the Department. This requirement applies to all consulting firms when the contract amount equals or exceeds \$10,000.
7. The Department does not discriminate against an offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

Any offeror who desires to protest the award of a contract shall submit such protest in writing to the Department no later than ten days after the announcement of the award. Public announcement of the award shall be posted on the Department's Business Center Internet site.

8. eVA Business-to-Government Vendor Registration: The eVA Internet electronic procurement solution, web site portal (<http://www.eva.state.va.us>), streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution through either eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. For more detail information regarding eVA, registrations, fee schedule, and transaction fee, use the website link: <http://www.eva.state.va.us>. All bidders or offerors must register in eVA; failure to register will result in the bid/proposal/expression of interest being rejected.
9. Year 2000 Compliant (and Enablement) Warranty: The consultant warrants that all software, firmware and hardware product(s) delivered to the Department under any agreement, and which is used in accordance with the product documentation provided by the consultant, shall be 4-digit Year 2000 compliant (or approved enabled). All products shall accurately process all date-change data from start to finish, including, but not limited to, twentieth, twenty-first centuries and leap year calculations.

Any product provided under the agreement discovered not to be Year 2000 compliant after acceptance shall be corrected by the consultant at no additional cost to the Department. Failure to correct the deficiency shall subject the consultant to default action.

The consultant shall not be responsible for correcting any product(s) (e.g., hardware, software, firm ware) which were not provided under the agreement or for correcting any previously owned Department products that are used in combination with the Department's product(s). However, if this solicitation identifies any product or sources of data to be used in combination with the product(s) delivered under the resulting agreement, the consultant shall be responsible for providing all necessary interface(s) or other appropriate means for assuring that date data output from such other product(s) or source(s) is automatically corrected before being processed by the product(s) or system provided under this agreement.

(List Amount of Each With VDOT by Division)

PRIME CONSULTANT

TOTAL AMOUNT OF PRIME'S CONTRACTS

SUBCONSULTANTS†

TOTAL AMOUNT OF SUB'S CONTRACTS

TOTAL REMAINING WORKLOAD

Please list all VDOT projects followed by their Category letter. Only those projects in Category ____ are to be totaled and counted on this selection.

Category B: Preliminary Engineering Contracts - includes transportation planning and environmental studies, utility relocation and design, and roadway and bridge design.

Category C: Construction Engineering Contracts - includes construction inspection, preparation of final estimates, and bridge and traffic structure safety inspection.

Category D: Operation and maintenance Contracts - includes operation and maintenance of traffic management systems.

** Amount of contract includes contingency and non-salary direct cost and all executed supplemental agreements.

*** Excluding Subconsultants

For any work that has been exempted by VDOT, you must include a copy of the exemption letter with this submittal.

Work being performed under the Public Private Transportation Act (PPTA) or as a subcontractor on a Design-Build project shall not be included. Work being performed as a prime or joint venture on a Design-Build project shall be included.

† The outstanding workload of any certified DBE or SWaM prime and subconsultant is not to be included. When a DBE or SWaM firm graduates from the program, their workload incurred while a DBE or SWaM will be exempted for the next three years. Any work obtained after graduating from the program will be counted.

FIRM DATA SHEET

Funding: ____ (S=State F=Federal)

Project No.: _____

Division: _____

EOI Due Date: _____

The prime consultant is responsible for submitting the information requested below on all firms on the project team, both prime and all subconsultants. All firms are to be reported on one combined sheet unless the number of firms requires the use of an additional sheet. Failure to submit all of the required data will result in the Expression of Interest not being considered.

Firm's Name, Address and DBE and/or SWAM Certification Number	Firm's DBE or SWaM Status *	Firm's Age	Firm's Annual Gross Receipts

* YD = DBE Firm Certified by DMBE

N = DBE or SWaM Firm Not Certified by DMBE

NA = Firm Not Claiming DBE or SWaM Status

YS = SWaM Firm Certified by DMBE. Indicate whether small, woman-owned, or small business.

DMBE is the Virginia Department of Minority Business Enterprise

CERTIFICATION REGARDING DEBARMENT

PRIMARY COVERED TRANSACTIONS

(To be completed by a Prime Consultant)

Project: _____

- 1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
 - b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; and have not been convicted of any violations of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1) b) of this certification; and
 - d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- 2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the Commonwealth Transportation Board.

Signature

Date

Title

Name of Firm

CERTIFICATION REGARDING DEBARMENT
LOWER TIER COVERED TRANSACTIONS
(To be completed by a Sub-consultant)

Project: _____

- 1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- 2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the Commonwealth Transportation Board.

Signature

Date

Title

Name of Firm

DIVISION:
CONSULTANT SHORT LIST SCORE SHEET – FEDERALLY / STATE FUNDED PROJECT
(FOR PROFESSIONAL SERVICES)

EOI NO.: _____

PROJECT: _____ FIRM: _____

DESCRIPTION: _____ SUBS: _____

DATE: _____

		NUMERICAL VALUE				AVG.	WEIGHT	WEIGHTED EVALUATION
FIRM/TEAM'S EXPERIENCE IN SIMILAR TYPE OF SERVICES (Expertise, experience and qualifications of team in providing services as related to the scope of services) (1=least, 10=most)		1-10					25%	
PERSONNEL'S EXPERIENCE IN SIMILAR TYPE OF SERVICES (Expertise, experience and qualifications of team in providing services as related to the scope of services) (1=least, 10=most)		1-10					40%	
QUALIFICATIONS OF PROJECT MANAGER (Expertise, experience and qualifications in project management as related to the scope of services) (1=least, 10=most)		1-10					5%	
ORGANIZATIONAL CAPABILITY (Ability to complete work in a timely manner, size of firm(s) relative to size of project, proposed project staff resources, proposed use of subconsultants) (1=least, 10=most)		1-10					20%	
PRESENT WORKLOAD WITH DEPARTMENT ** (Dollar value of present outstanding fee including estimated pending contracts under negotiation. For limited services term contracts, include the amount of all task orders executed or under negotiation Work being performed under the Public Private Transportation Act (PPTA) or as a subcontractor on a Design-Build project shall not be included. Work being performed as a prime or joint venture on a Design-Build project shall be included.) † (Only Category ____ workload is counted on this selection*)	Above \$8,000,000	0					10%	
	7,000,001-8,000,000	1						
	6,000,001-7,000,000	2						
	5,000,001-6,000,000	3						
	4,000,001-5,000,000	4						
	3,000,001-4,000,000	5						
	2,000,001-3,000,000	6						
	1,500,001-2,000,000	7						
	1,000,001-1,500,000	8						
	500,001-1,000,000	9						
	0-500,000	10						
							TOTAL	

*CATEGORIES OF WORKLOAD:

A - TERM SURVEYING AND UTILITY DESIGNATION/LOCATION CONTRACTS

B - PRELIMINARY ENGINEERING CONTRACTS - includes transportation planning and environmental studies, utility relocation and design, and roadway and bridge design.

C - CONSTRUCTION ENGINEERING CONTRACTS - includes construction inspection, preparation of final estimates, and bridge and traffic structure safety inspection.

D - OPERATION AND MAINTENANCE CONTRACTS - includes operation and maintenance of traffic management systems.

**When determining total Present Workload with Department, the outstanding workload of each DBE/SWaM subconsultant will not be counted.

† The outstanding workload of any certified DBE or SWaM prime and subconsultant is not to be included. When a DBE or SWaM firm graduates from the program, their workload incurred while a DBE or SWaM will be exempted for the next three years. Any work obtained after graduating from the program will be counted.

In determining the final short list, the top ranked firms and their subconsultants will have their VDOT Consultant Performance Reports reviewed and/or references checked.

GOOD FAITH EFFORT (Federally Funded Project with DBE Goal)

The Department will be accepting what consultants submit in their Expressions of Interest regarding good faith efforts. If a firm that has submitted good faith effort documentation makes the short list, the procuring Division Administrator (cannot be delegated unless he/she will be out of the office for more than 5 work days) along with a representative of the EO Division will determine if the good faith effort is acceptable.

When there is a contract goal, a consultant must make good faith efforts to meet it. The consultant can do so either through obtaining enough DBE participation to meet the goal or documenting the good faith efforts it made to do so. These means of meeting contract goal requirements are fully equivalent. 49 CFR Part 26 (the Rule) explicitly provides that the Department must not disregard showings of good faith efforts, and it gives consultants the right to have the Department reconsider a decision that their good faith efforts were insufficient. The Department is prohibited from denying a contract to a consultant simply because it did not obtain enough DBE participation to meet the goal. The Department must seriously consider consultants' documentation of good faith efforts. To make certain that consultants' showings are taken seriously, the Rule requires the Department to offer administrative reconsideration to consultants whose good faith efforts showings are initially rejected.

The Rule also ensures flexibility for consultants by requiring that any contract goal be waived entirely for a prime consultant that demonstrates that it made good faith efforts but was still unable to meet the goal.

When the Department sets a contract goal, the basic obligation of consultants is to make good faith efforts to meet it. They can demonstrate these efforts in either of two ways, which are equally valid. First, they can meet the goal, by documenting that they have obtained commitments for enough DBE participation to meet the goal. Second, even though they have not met the goal, they can document that they have made good faith efforts to do so. A refusal by the Department to accept valid showings of good faith is not acceptable under the Rule.

The Rule makes clear that the Department is not to use a "conclusive presumption" approach, in which the apparent successful consultant is summarily found to have failed to make good faith efforts simply because another consultant was able to meet the goal. However, the performance of other consultants in meeting the contract can be a relevant factor in a good faith effort determination, in more than one way. For example, when the apparent successful consultant fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful consultant could have met the goal. It does not, by itself, prove that the apparent successful consultant did not make a good faith effort to get DBE participation, however. On the other hand, if the apparent successful consultant fails to meet the goal, but meets or exceeds the average DBE participation obtained by other consultants, the Department may view this, in conjunction with other factors, as evidence of the apparent successful consultant having made good faith efforts.

The fact that some additional costs may be involved in finding and using DBEs is not in itself sufficient reason for a consultant's failure to meet a DBE contract goal, as long as such costs are reasonable.

If the Department determines that the apparent successful consultant has failed to meet the requirements of a good faith effort, the Department must, before awarding the contract, provide the consultant an opportunity for administrative reconsideration. The Department intends that the process be informal and timely. The Department will ensure that the process is completed within a brief period (e.g., 5-10 days) to minimize any potential delay in procurements. The consultant will have an opportunity to meet with the reconsideration official, but a formal hearing is not required. As part of this reconsideration, the consultant must have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Department's decision on reconsideration will be made by an official who did not take part in the original determination that the consultant failed to meet the goal or make adequate good faith efforts to do so. The consultant must have the opportunity to meet in person with the reconsideration official to discuss the issues of whether it met the goal or made adequate good faith efforts to do so. The Department will send the consultant a written decision on reconsideration, explaining the basis for finding that the consultant did or did not meet the goal or make adequate good faith efforts to do so. The Department's reconsideration personnel consists of the Commissioner's DBE Review Panel.

It is up to the Department to make a fair and reasonable judgement whether a consultant that did not meet the goal made adequate good faith efforts. It is important for the Department to consider the quality, quantity, and intensity of the different kinds of efforts that the consultant has made. The efforts employed by the consultant should be those that one could reasonably expect a consultant to take if the consultant were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE

contract requirements. The Department's determination concerning the sufficiency of the firm's good faith efforts is a judgement call: meeting quantitative formulas is not required.

If DBE is prime, they will be allowed to count toward goals the work they commit to performing with their own forces, as well as the work that they commit to be performed by DBE subcontractors. DBE consultants on prime contracts will be expected to make the same outreach efforts as other consultants.

When a DBE participates in a contract, the Department will count only the value of the work actually performed by the DBE toward DBE goals. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function. If a DBE firm loses certification, its work no longer counts toward the DBE goal.

All consultants will be required to submit the following information to the Department with the EOI:

- The names and addresses of DBE firms that will participate in the contract;
- A description of the work that each DBE will perform;
- The percentage amount of the participation of each DBE firm participating;
- Written documentation of the prime consultant's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
- Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
- If the contract goal is not met, evidence of good faith efforts.

The Department has prepared a list based on Federal Regulations of some of the kinds of efforts that consultants may make in obtaining DBE participation. It is not intended to be a mandatory checklist. The Department does not require that a consultant do any one, or particular combination, of the things on the list, nor is the list intended to be exclusive or exhaustive; it merely offers examples. Other factors or types of efforts may be relevant in appropriate cases. In determining whether a consultant has made good faith efforts, it will usually be important for the Department to look not only at the different kinds of efforts that the Consultant has made, but also of the timeliness, quantity, and intensity of these efforts.

The Department offers the following examples of efforts that may be considered:

A. Soliciting through all reasonable and available means (e.g., attendance at project showings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The consultant must solicit this interest within sufficient time to allow the DBEs to participate effectively. The consultant must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime consultant might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract.

D. (1) Negotiating in good faith with interested DBEs. It is the consultant's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

D. (2) A consultant using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's costs, qualifications and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a consultant's failure to meet the contract DBE goal, as long as such costs are reasonable.

Also, the ability or desire of a prime consultant to perform the work of a contract with its own organization does not relieve the consultant of the responsibility to make good faith efforts. Prime consultants are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority community organizations; minority contractors' groups; local, state, and Federal minority business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.